

## Class Action Defense

***Consumer protection. Product defects. Alphabet soup of federal legislation. Wage and hour disputes. Odor nuisance. Carcinogenic ingredients. Healthcare issues.***

Whatever the issue, whether there are 10 or 10,000 plaintiffs, Lathrop GPM is prepared to defend your company, institution, or organization in class actions and cases consolidated under multidistrict litigation (MDL). Recognized as one of the most respected and experienced class action defense firms in the country, Lathrop GPM works diligently to develop case strategies that achieve our clients' goals, whether that is to defeat class certification, narrow the issues or eliminate the case through motions, negotiate a creative and favorable settlement, or win at trial.

Despite the passage of the Class Action Fairness Act and the Supreme Court of the United States' endorsement of class action waivers, and restrictions on class certification, plaintiffs' class action firms continue to create new and creative class claims, so class action filings remain prominent amid the legal landscape. Such "bet the company" cases pose a substantial threat to organizations through damage claims, intrusive discovery, negative publicity, and the risk of unfavorable outcomes that could affect core business operations. As plaintiffs' firms have become more sophisticated in asserting their claims through class action matters, our firm has refined its strategies to meet our clients' goals, whether that is to aggressively defend clients to achieve resolutions quickly and cost-effectively, or to prevail at trial and on appeal. We have built our reputation by battling rogue claims and implementing cutting-edge tactics to achieve favorable results for clients.

Our more than 200 litigators have the breadth of expertise to prevail in high-profile, high-stakes litigation nationwide. And our attorneys wrote the book on class actions in Missouri and Kansas. Our attorneys have

deep knowledge and experience in the industries we serve, and are adept at handling all aspects of class action litigation.

We have successfully defended hospitals, manufacturing companies, agribusinesses, universities, financial institutions, landfill operators, government institutions, franchise systems, telemarketing entities and others in class action litigation.

We have defended complex, multidistrict class action claims following a natural disaster. We have helped change legislation to eliminate the risk of future cases. We have prevailed on dispositive motions for a nine-figure case. We have resolved high exposure cases quickly and quietly on an individual basis. We have triumphed on motions to dismiss in class action toxic tort cases. We have secured summary judgement related to chemical exposure.

We understand how class action claims can impact our clients' bottom lines and reputations. Lathrop GPM has mastered the complex and ever-changing tides of the law, and we are prepared to partner in aggressively defending all types of class action and MDL matters. Companies and institutions understand the complexity of high-stakes class action matters, which is why many of the nation's industry leaders turn to Lathrop GPM for dynamic defense in state and federal class actions.

Our track record of success with precertification dismissals, settlements, summary judgments, trials, appeals and class certification and de-certification covers a broad spectrum of allegations, including:

- Consumer protection and Merchandising Practices Acts
- Civil Racketeer Influenced and Corrupt Organizations Act (RICO)
- Driver Privacy Protection Act (DPPA)
- Telephone Consumer Protection Act (TCPA)
- Fair Credit Reporting Act (FCRA)
- Environmental
- Odor nuisance and related claims
- Product failure claims

- Breach of warranty claims
- Toxic tort and chemical exposure
- Employee benefits
- Employment practices
- Wage and hour
- Fiduciary duties
- Securities
- Investment management
- Insurance

**Here are summaries of a few recent cases:**

- Our attorneys served as lead counsel for a major electronic manufacturer in defense of 18 alleged product liability class actions across the country.
- We have extensive experience representing clients in the healthcare industry, who are frequently targets of plaintiff's lawyers in class actions involving a variety of claims including consumer protection violations, improper disclosure of protected health information, charges for medical records, and employment related issues. Recent examples include:
  - We successfully defended a health system in a state court class action alleging that our clients did not comply with the applicable statute relating to medical records requests, including overcharging. Plaintiffs asserted claims including unjust enrichment, violation of the state's medical records statute, and violation of the Merchandising Practices Act. We aggressively defended the case and obtained a favorable settlement for our client.
  - We represented a health system involving improper disclosure of protected health information. Plaintiff alleged that she paid for her elective cosmetic surgery herself, and that the hospital improperly disclosed her medical information to a business associate who assisted patients with obtaining health insurance. She sought to represent a class of similarly situated patients. We prevailed on a motion to transfer venue and subsequently won our motion for summary judgment.
  - We represented a major national pharmacy in a class action in which plaintiffs alleged that our clients overcharged customers for medical records. Plaintiff's complaint alleged violations of

the state's medical records statute, unjust enrichment, and the Merchandising Practices Act. We obtained a very favorable settlement.

- We successfully defended a University in a class action alleging that representations in University materials that the campus was "safe" violated the applicable Consumer Protection Act. The claims were brought by two female former student-athletes who alleged they had been sexually assaulted in a dorm room by another student-athlete. The female student athletes' parents were also plaintiffs. They argued that the university's representations of a "safe campus" on its website and in recruiting materials were inaccurate and misleading, and sought disgorgement of all tuition and fees paid during the class period. We prevailed on a motion to dismiss, and settled favorably on appeal.
- We regularly defend a national waste service company in class actions around the country, primarily involving toxic tort and odor nuisance claims. Examples of our work in this area include:
  - Successfully defended our client in a putative class action involving our client's landfill, recyclery and composting facility. Plaintiffs sought damages on behalf of all persons within a several-mile radius of the landfill for alleged odor, particulate and air pollutants that they claimed substantially interfered with their and others' use and enjoyment of their homes. We succeeded in obtaining voluntary dismissal of claims against our client's parent company, and continued to defend two subsidiaries in the litigation. After several years of discovery, the court denied plaintiffs' motion for class certification without prejudice (in large part due to plaintiffs' air modeler's significant mistakes, as identified by defense expert testimony), and the parties subsequently reached a favorable settlement.
  - Successfully defended our client and one of its subsidiaries in a putative class action in which plaintiffs claimed odor nuisance and other theories based on the alleged experience of thousands of individuals in a community living within three miles of our client's landfill facility. After years of discovery, full class certification briefing, and a mediation, the parties reached an agreement just prior to the class certification hearing and settled on favorable terms for our client.
  - Successfully defeated efforts to certify a class of potentially more than 1,000 homeowners whose properties surrounded a landfill. Nine plaintiffs claimed that the landfill had contaminated their groundwater and brought CERCLA, negligence, nuisance,

trespass, willful and wanton misconduct, and RCRA citizen suit claims due to dirt, dust, debris, litter and noxious odors allegedly emanating from the landfill. We successfully identified a more likely source of contamination, the court denied class certification, and we obtained a favorable settlement shortly before trial.

- We won a complete defense verdict at trial in which plaintiffs in a class action alleged that our client aided and abetted franchise fraud and committed civil deception. We again defended our client in the Court of Appeals where the Court affirmed the defense verdict.